

## AN ORDINANCE **98198**

**AUTHORIZING A NO COST CHANGE ORDER TO THE CONSTRUCTION CONTRACT BETWEEN THE CITY OF SAN ANTONIO AND CLARK/JT CONSTRUCTION, A JOINT VENTURE FOR CONSTRUCTION OF THE CITY OF SAN ANTONIO, HENRY B. GONZALEZ CONVENTION CENTER EXPANSION PROJECT, PHASE IB, AND AMENDING THE REVIEW AND RESOLUTION OF CLAIMS AND DISPUTES PROVISION IN THE CONTRACT TO RELEASE PARTIES FROM THESE REQUIREMENTS AND INSTEAD IMPOSE MEDIATION AND BINDING ARBITRATION SOLEY FOR THE TODD-FORD DISPUTE AS AN ALTERNATIVE RESOLUTION PROCOESS.**

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**WHEREAS**, the City of San Antonio and Clark/JT Construction, a Joint Venture (Clark) entered into a Construction Agreement (the "Agreement") dated May 8, 1997 for work for the Henry B. Gonzalez Convention Center Expansion Project, Phase IB – New Construction and Renovation (the "Project"); and

**WHEREAS**, work on the Project has been completed however, the City and Clark are currently involved in a dispute relating to a change order submitted by Clark for compensation for alleged inefficiencies associated with extra work performed by two of Clark's subcontractors, Todd-Ford, Inc. and Lewis & Lambert; and

**WHEREAS**, the Agreement entered into between the City and Clark provides for a Dispute Resolution Process which requires the parties to attempt to resolve their disputes by participation in a hearing before a Dispute Review Board ("DRB"), comprised of three (3) individuals – one selected by the City, one by Clark and a third neutral party selected by the City and Clark.

**WHEREAS**, this Ordinance authorizes a no cost change order to that Agreement in order to allow the parties to bypass the DRB and instead to proceed directly to mediation, and in the event that mediation is unsuccessful, to submit this issue to binding arbitration; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** There is hereby approved a no cost change order with Clark/JT Construction which will allow the City and Clark to bypass the Dispute Resolution Board and instead to proceed directly to mediation, and in the event that mediation is unsuccessful, to binding arbitration, solely on a matter relating to alleged inefficiencies associated with extra work performed by two of Clark's subcontractors, Todd-Ford, Inc. and Lewis & Lambert. The proposed Mediation approved by this Ordinance will involve the employment of a neutral third party educated in the subject of the dispute, equally funded by the City, Clark, and Todd-Ford, to

facilitate discussions between the City and Clark with a view to persuading the parties to adjust or narrow the gap between the amount of recovery sought by Clark and the City's position of no liability.

**SECTION 2.** The arbitration approved by this Ordinance will only be utilized if mediation does not result in resolution of the claim and would involve a panel of three arbitrators, equally funded by the City, Clark, and Todd-Ford. The panel would conduct the arbitration hearing utilizing the Construction Industry Disputes Resolution Procedures of the American Arbitration Association.

**SECTION 3** The City Manager or her designee, shall be authorized for 45 days following the effective date of this Ordinance to execute the Change Order and Submission Agreement and such other documents as are necessary to carry out the intent of the Ordinance. A copy of the Change Order and Submission Agreement is attached hereto as Exhibit I.

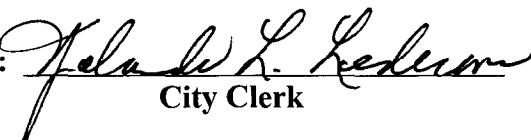
**SECTION 4** This amendment is a "no cost" change order to the terms and conditions of the Agreement between the City of San Antonio and Clark/JT Construction, Inc., Joint Venture does not increase the overall Project budget, and does not impact the General Fund. There are no appropriations or encumbrances and no financial impact associated with this Ordinance.

**SECTION 5** This ordinance shall take effect on the tenth (10<sup>th</sup>) day after the date of passage.


**PASSED AND APPROVED** this 25th day of September, 2003.

  
M A Y O R  
EDWARD D. GARZA

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
for City Attorney